

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE BILL NO. 1433
(Representatives S. Meyer, N. Johnson, Schatz, Wald)
(Senators Nodland, Wardner)

AN ACT to amend and reenact section 50-24.4-16 of the North Dakota Century Code, relating to nursing home rates; to provide an appropriation; to provide legislative intent; to provide an effective date; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.4-16 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-16. Special rates.

1. For nursing homes with a significant capacity increase and for newly constructed nursing homes, which first provide services on or after July 1, 1988, and which are not included in the calculation of the limits of any cost category, the department shall establish procedures for determining interim operating cost payment rates. The interim payment rate may not be in effect for more than eighteen months. The department shall establish procedures for determining the interim rate and for making a retroactive cost settle-up for periods when an interim rate was in effect.
2. As soon as is practicable following the establishment of the procedures required by subsection 1, the department shall apply the special rates for all affected facilities.
3. Notwithstanding section 50-24.4-19, the department shall provide for a special care rate to be paid to a nursing home that has a capacity of fewer than thirty-one licensed beds, was not previously a hospital with critical access designation after May 31, 2009, and is owned and operated by a nonstate governmental unit.
 - a. To qualify for a special care rate, a nursing home shall document that the nursing home's allowable costs are in excess of the standard nursing home rates that are otherwise established in accordance with this chapter and shall demonstrate to the department's satisfaction that access to nursing home services may be jeopardized if additional reimbursement is not provided.
 - b. The special care rate established in accordance with this subsection may not exceed the lesser of the difference between the nursing home's costs per medical assistance day of care and the standard medical assistance nursing home per diem rates established in accordance with this chapter or the medical assistance upper payment limit established in accordance with federal regulations.
 - c. For a new nursing home, the department shall establish an interim special care rate that must be in effect for no fewer than ten months and no more than eighteen months. Costs for the period in which the interim special care rate is in effect must be used to establish a final special care rate.
 - d. The matching funds for the special care rate must be from municipal or county funds.

SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$28,761, or so much of the sum as may be necessary, and from special funds derived from federal and other funds, the sum of \$337,114, or so

much of the sum as may be necessary, to the department of human services for the purpose of funding a special care rate for qualifying nursing homes, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 3. LEGISLATIVE INTENT. It is the intent of the legislative assembly that before a political subdivision may provide local matching funding for the special care rate for qualifying nursing homes, the governing body of the political subdivision shall submit the question for approval of the funding from the general fund of the political subdivision to the qualified electors of the political subdivision.

SECTION 4. CONTINGENT EFFECTIVE DATE. This Act is contingent on the state department of health certifying to the legislative council, before April 16, 2009, that Richardton memorial hospital has notified the state department of health that the hospital is releasing the hospital's critical access designation.

SECTION 5. EXPIRATION DATE. Section 1 of this Act is effective through June 30, 2011, and after that date is ineffective.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1433 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 77 Nays 12 Absent 5

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 46 Nays 0 Absent 1

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,
at _____ o'clock _____ M.

Secretary of State